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Attorneys for Defendant  
ABM Industries, Inc.

9 **UNITED STATES DISTRICT COURT**  
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11  
12 MARIA HERNANDEZ, an individual

13 Plaintiff,

14 v.

15 ABM INDUSTRIES, INC., a Delaware  
16 corporation; and DOES 1 through 100,  
Inclusive

17 Defendants.  
18  
19  
20  
21  
22

CASE NO.

(Orange Superior Court Case No. 30-  
2015-00809242-CU-WT-CJC)

**DEFENDANT ABM INDUSTRIES,  
INC.'S PETITION AND NOTICE OF  
REMOVAL OF CIVIL ACTION  
PURSUANT TO 28 U.S.C. §§ 1332  
AND 1441 [FILED  
CONCURRENTLY WITH  
DECLARATION OF PAUL M.  
TEINERT]**

Date State Action Filed:  
September 11, 2015

23  
24 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR  
25 THE CENTRAL DISTRICT OF CALIFORNIA, AND TO PLAINTIFF MARIA  
26 HERNANDEZ AND HER COUNSEL OF RECORD:  
27  
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PLEASE TAKE NOTICE that Defendant ABM Industries, Inc. (“Defendant”) files this Notice of Removal of the above-entitled action from the Superior Court of the State of California for the County of Orange to the United States District Court for the Central District of California under 28 U.S.C. §1332, §1441 and §1446 based upon diversity of citizenship, as Plaintiff Maria Hernandez and Defendant are citizens of different States and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

In compliance with 28 U.S.C. §1446(a), Defendant asserts the following grounds for removal:

1. On or about September 11, 2016 Plaintiff Maria Hernandez (“Plaintiff”) filed an action against Defendant entitled “MARIA HERNANDEZ, an individual, Plaintiff, vs. ABM INDUSTRIES, INC., a Delaware corporation; and DOES 1 - 100, Inclusive, Defendants” in the Superior Court of California for the County of Orange, commencing Case Number 30-2015-00809242-CU-WT-CJC (the “Complaint”). Declaration of Paul M. Teinert (“Teinert Decl.”), ¶ 2, Ex. “A”.

2. Plaintiff's Complaint alleges damages for (a) Wrongful Termination In Violation of Public Policy – Discrimination Based Upon Disability, (b) Wrongful Termination In Violation of Public Policy – Discrimination Based Upon Age, (c) Unlawful Discrimination Based Upon Disability In Violation of Fair Employment and Housing Act, (d) Failure to Accommodate Disability in Violation of the Fair Employment and Housing Act, (e) Failure to Engage in the Interactive Process in Violation of the Fair Employment and Housing Act, and (f) Unlawful Discrimination Based Upon Age in Violation of the Fair Employment and Housing Act. Teinert Decl. ¶3, Ex. “A”.

3. The Summons, Civil Case Cover Sheet, Complaint, Plaintiff's Notice of Posting Jury Fees, Joint Case Management Statement, Defendant's Answer to Plaintiff's Complaint constitute all of the State Court Action pleadings, process, and orders filed or served to date. Teinert Decl. ¶4, Ex. "B".

4. During Defendant's initial written discovery efforts, it was first made aware that the amount in controversy exceeded the \$75,000.00 threshold required under 28 U.S.C. §1332. On January 22, 2016, Plaintiff, via USPS, mailed her responses to Defendant's Requests for Admissions wherein Plaintiff admitted that she was seeking more than \$75,000.00 in damages for the instant matter. Accordingly, this Notice is timely filed because it is filed within 30 days from the point at which Defendant had notice that the action is removable and is less than one year after the matter was filed in State Court. 28 U.S.C. §1446(b)(3). Teinert Decl. ¶5, Ex. "C".

5. Defendant will serve written notice of the filing of this Notice of Removal to Plaintiff, as required by 28 U.S.C. §1446(d), and will file a Notice of Removal with the clerk of the Superior Court of the State of California in and for the County of Orange, as further required by statute and case law. Teinert Decl. ¶6.

#### REMOVAL BASED ON DIVERSITY OF CITIZENSHIP

6. A state court action in which the parties are citizens of different States and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs may be removed to a United States District Court. 28 U.S.C. §1332, §1441(b). In Plaintiff's Complaint, Plaintiff correctly alleges Defendant's domicile as the State of Delaware and Plaintiff's domicile as the State of California. Teinert Decl. ¶7, Ex. "A", Complaint ¶ 2. Further, Plaintiff is claiming an excess of \$75,000.00 worth of

1 damages against Defendant, which exceeds the \$75,000.00 threshold required under  
 2 28 U.S.C. §1332. Teinert Decl. ¶5, Ex. "C". Due to the different states of domicile  
 3 of the Plaintiff and Defendant, and because the amount in controversy is in excess of  
 4 \$75,000.00, removal is proper under 28 U.S.C. §1332.

### 5 6 VENUE

7  
 8 7. Venue lies in the United States District Court for the Central District of  
 9 California, pursuant to 28 U.S.C. §128(b) and 1441(a), because this Court's  
 10 territorial jurisdiction includes Orange County, California, where the State Court  
 11 Action was filed and pending.

### 12 13 NOTICE TO STATE COURT AND TO PLAINTIFF

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 15 8. Defendant will give prompt notice of the filing of this Notice of  
 16 Removal to Plaintiff and to the Clerk of the Superior Court of the State of California  
 17 for the County of Orange. Teinert Decl. ¶6.

### 18 19 MISCELLANEOUS ISSUES

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 21 9. By filing this Notice of Removal, Defendant does not waive any  
 22 defenses that may be available to it including, without limitation, those related to  
 23 service, service of process, the sufficiency of process, venue, or jurisdiction, and  
 24 Defendant specifically reserves the right to assert any defenses and/or objections to  
 25 which they may be entitled.

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1 WHEREFORE, Defendant respectfully requests that the above-entitled action  
2 now pending against it in the Superior Court of the State of California for the  
3 County of Orange, Case No. 30-2015-00809242-CU-WT-CJC, be removed to this  
4 Court.

5  
6 DATED: February 22, 2016

ROSS WERSCHING & WOLCOTT LLP

7  
8 By: /s/ Paul M. Teinert

9 PAUL M. TEINERT  
10 Attorneys for Defendant  
11 ABM Industries, Inc.  
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